

ESTTA Tracking number: **ESTTA274789**Filing date: **03/27/2009**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Nike, Inc.		
Entity	Corporation	Citizenship	Oregon
Address	One Bowerman Drive Beaverton, OR 97005 UNITED STATES		

Attorney information	Kevin C. Parks Leydig, Voit & Mayer, Ltd. Two Prudential Plaza, 180 N. Stetson Ave Suite 4900 Chicago, IL 60601 UNITED STATES kparks@leydig.com, mcalkins@leydig.com Phone:312-616-5600
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Registration Subject to Cancellation

Registration No	2276975	Registration date	09/14/1999
Registrant	SPARCO S.P.A. VIA ORAZIO ANTINORI 6 TORINO PIEDMONT, 10128 ITALY		

Goods/Services Subject to Cancellation

Class 009. First Use: 1981/01/05 First Use In Commerce: 1993/08/18 All goods and services in the class are cancelled, namely: sportswear treated to be fireproof; namely coats, waistcoats, overcoats, jackets, rainwear, slickers, raincoats, caps, hoods, balaclavas, face masks, sweaters, turtleneck sweaters, sweater vests, sweatshirts, vests, shirts, T-shirts, jumpsuits, tracksuits, overalls, Bermuda shorts, pants, jeans, shoes, boots, overshoes, socks, underwear, including briefs, undershirts, and bottoms, and gloves, including work gloves and fireproof gloves
Class 025. First Use: 1983/05/02 First Use In Commerce: 1983/05/03 All goods and services in the class are cancelled, namely: sportswear; namely coats, waistcoats, overcoats, jackets, rainwear, slickers, raincoats, caps, hoods, balaclavas, face masks, sweaters, turtleneck sweaters, sweater vests, sweatshirts, vest, shirts, T-shirts, jumpsuits, tracksuits, overalls, Bermuda shorts, pants, jeans, shoes, boots, overshoes, socks, underwear, including briefs, undershirts, and bottoms, and gloves, including work gloves and fireproof gloves

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
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Attachments	Petition for Cancellation as filed 3-27-09.pdf (8 pages)(1207756 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kevin C. Parks/
Name	Kevin C. Parks
Date	03/27/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NIKE, INC.,)	
)	
Petitioner,)	Cancellation No. _____
)	
v.)	Registration No. 2,276,975
)	
SPARCO S.P.A.,)	Date of Issue: Sept. 14, 1999
)	
Respondent.)	

**PETITION FOR CANCELLATION OF A REGISTRATION
ON THE PRINCIPAL REGISTER**

Petitioner, Nike, Inc. ("Petitioner"), an Oregon corporation, located at One Bowerman Drive, Beaverton, Oregon 97005, believes that it is being damaged by Principal Registration No. 2,276,975 for the mark "SPARCO" (the "Registration"), owned by Sparco S.p.A. ("Respondent") and hereby petitions to cancel the same pursuant to 15 U.S.C. § 1064.

As grounds of this petition, Petitioner alleges that:

1. Petitioner is a leading sports and fitness company, and a leading provider of a broad range of clothing, footwear, sporting goods and related products and services.
2. Petitioner uses the mark "SPARQ" in connection with certain of its products and services, and intends to continue such use.
3. Due to an acquisition effective January 9, 2009, Petitioner is the owner of several Federal applications and registrations featuring the mark "SPARQ." Assignments for these various applications and registrations are pending recordal at the USPTO.
4. Respondent is listed in the U.S. Patent and Trademark Office records as the current record owner of the Registration.

5. Upon information and belief, Respondent is a corporation of Italy and has an address at Via Orazio Antinori 6, Torino Piedmont 10128, Italy.

6. The Registration is for the following goods: “sportswear treated to be fireproof; namely coats, waistcoats, overcoats, jackets, rainwear, slickers, raincoats, caps, hoods, balaclavas, face masks, sweaters, turtleneck sweaters, sweater vests, sweatshirts, vests, shirts, T-shirts, jumpsuits, tracksuits, overalls, Bermuda shorts, pants, jeans, shoes, boots, overshoes, socks, underwear, including briefs, undershirts, and bottoms, and gloves, including work gloves and fireproof gloves” in International Class 9 and “sportswear; namely coats, waistcoats, overcoats, jackets, rainwear, slickers, raincoats, caps, hoods, balaclavas, face masks, sweaters, turtleneck sweaters, sweater vests, sweatshirts, vest, shirts, T-shirts, jumpsuits, tracksuits, overalls, Bermuda shorts, pants, jeans, shoes, boots, overshoes, socks, underwear, including briefs, undershirts, and bottoms, and gloves, including work gloves and fireproof gloves” in International Class 25. *See Exhibit A.*

7. The Registration matured from Application Serial No. 75,141,983 (the “Application”), which was filed under the Lanham Act Section 1(a) on July 30, 1996.

8. The Application was subsequently amended to include the above-referenced list of goods in a response to the Trademark Office dated November 30, 1998. This response included a sworn statement signed by a principal of the Respondent pursuant to 37 C.F.R. § 2.20 that all statements made in the response on the Respondent’s own knowledge were true and those made on information and belief were believed to be true and that Respondent was currently using all of the goods in the above-referenced identifications.

9. On information and belief, Respondent was not using “SPARCO” as a trademark in connection with one or more of the goods identified in its description of goods in both Classes 9 and 25 as of November 30, 1998.

10. On information and belief, Respondent knew or should have known that it was not using “SPARCO” as a trademark in connection with one or more of the goods identified in its description of goods in both Classes 9 and 25 as of November 30, 1998.

11. On information and belief, Respondent’s statement that it was using the mark “SPARCO” in connection with all goods identified in its identification of goods was a false misrepresentation of material fact, and constitutes fraud on the U.S. Patent and Trademark Office.

12. On information and belief, the above-identified misrepresentation of material fact was relied upon by the U.S. Patent and Trademark Office in determining Respondent’s rights to the Registration, or was otherwise material.

13. On September 13, 2005, Respondent’s attorney filed a Declaration of Use and Incontestability (the “Declaration”) pursuant to Sections 8 and 15 of the Lanham Act. In this Declaration, Respondent included a sworn statement signed by Respondent’s attorney on Respondent’s behalf pursuant to 37 C.F.R. § 2.20 that all statements made in the response on the Respondent’s own knowledge were true and those made on information and belief were believed to be true and that Respondent was currently using all of the goods in the above-referenced identifications.

14. On information and belief, Respondent was not using “SPARCO” as a trademark in connection with one or more of the goods identified in its description of goods in both Classes 9 and 25 as of September 13, 2005.

15. On information and belief, Respondent knew or should have known that it was not using “SPARCO” as a trademark in connection with one or more of the goods identified in its description of goods in both Classes 9 and 25 as of September 13, 2005.

16. On information and belief, Respondent’s statement that it was using the mark “SPARCO” in connection with all goods identified in its identification of goods was a false misrepresentation of material fact, and constitutes fraud on the U.S. Patent and Trademark Office.

17. On information and belief, the above-identified misrepresentation of material fact was relied upon by the U.S. Patent and Trademark Office in determining Respondent’s continued rights to the Registration, or was otherwise material.

18. For all of these reasons, Petitioner submits that Respondent’s Registration issued and/or was renewed as a result of fraud, or was otherwise improperly issued and/or renewed, and is subject to cancellation.

WHEREFORE, by its undersigned attorneys, Petitioner respectfully requests that this Petition for Cancellation be sustained, and that Registration No. 3,268,998 be cancelled.

Please charge deposit account No. 12-1216 in the amount of \$600.00 to cover the filing fee of this Petition for Cancellation. Please charge any additional fees to Deposit Account 12-1216, as necessary.

Respectfully submitted,

Date: March 27, 2009

By: _____



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Attorneys for Petitioner

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the attached Petition for Cancellation was filed electronically with the Trademark Trial and Appeal Board on March 27, 2009.



Michelle L. Calkins

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Petition for Cancellation was served by first class mail to the following addresses on March 27, 2009, such being the Registrant's address listed in the TARR system and the Registrant's listed attorney as of this date:

Sparco S.p.A.
Via Orazio Antinori 6
Torino Piedmont 10128
Italy

Laurence B Bond
TraskBritt
230 South 500 East Suite 300
Salt Lake City, UT 84102



Michelle L. Calkins

EXHIBIT A

Int. Cls.: 9 and 25

Prior U.S. Cls.: 21, 22, 23, 26, 36, 38 and 39

Reg. No. 2,276,975

United States Patent and Trademark Office

Registered Sep. 14, 1999

**TRADEMARK
PRINCIPAL REGISTER**

SPARCO

**SPARCO S.R.L. (ITALY CORPORATION)
CORSO RE UMBERTO I
10121 TORINO, ITALY**

**FOR: SPORTSWEAR TREATED TO BE FIRE-
PROOF; NAMELY COATS, WAISTCOATS,
OVERCOATS, JACKETS, RAINWEAR, SLICK-
ERS, RAINCOATS, CAPS, HOODS, BALACLA-
VAS, FACE MASKS, SWEATERS, TURTLE-
NECK SWEATERS, SWEATER VESTS, SWEAT-
SHIRTS, VESTS, SHIRTS, T-SHIRTS, JUMP-
SUITS, TRACKSUITS, OVERALLS, BERMUDA
SHORTS, PANTS, JEANS, SHOES, BOOTS,
OVERSHOES, SOCKS, UNDERWEAR, INCLUD-
ING BRIEFS, UNDERSHIRTS, AND BOTTOMS,
AND GLOVES, INCLUDING WORK GLOVES
AND FIREPROOF GLOVES, IN CLASS 9 (U.S.
CLS. 21, 23, 26, 36 AND 38).**

**FIRST USE 1-5-1981; IN COMMERCE
8-18-1993.**

**FOR: SPORTSWEAR; NAMELY COATS,
WAISTCOATS, OVERCOATS, JACKETS, RAIN-
WEAR, SLICKERS, RAINCOATS, CAPS,
HOODS, BALACLAVAS, FACE MASKS,
SWEATERS, TURTLENECK SWEATERS,
SWEATER VESTS, SWEATSHIRTS, VEST,
SHIRTS, T-SHIRTS, JUMPSUITS, TRACKSUITS,
OVERALLS, BERMUDA SHORTS, PANTS,
JEANS, SHOES, BOOTS, OVERSHOES, SOCKS,
UNDERWEAR, INCLUDING BRIEFS, UNDER-
SHIRTS, AND BOTTOMS, AND GLOVES, IN-
CLUDING WORK GLOVES AND FIREPROOF
GLOVES, IN CLASS 25 (U.S. CLS. 22 AND 39).**

**FIRST USE 5-2-1983; IN COMMERCE
5-3-1983.**

OWNER OF U.S. REG. NO. 1,367,444.

SER. NO. 75-141,983, FILED 7-30-1996.

**JOAN LESLIE BISHOP, EXAMINING ATTOR-
NEY**